



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

July 8, 1957

Honorable M. B. Morgan  
Commissioner  
Bureau of Labor Statistics  
Capitol Station  
Austin, Texas

Opinion No. WW-184.

Re: Interpretation and construction of Section 5, Article 5172a, Vernon's Civil Statutes, Hours of Work for Female Employees and Exceptions as to certain employment.

Dear Mr. Morgan:

You have requested our opinion upon the construction of Section 5, Article 5172a, Vernon's Civil Statutes, and ask to be advised if the exemptions under said statute, as to stenographers, pharmacists, mercantile establishments, telephone and telegraph companies apply only to rural districts, and in cities or towns or villages of less than three thousand population.

Section 1, Article 5172a, Vernon's Civil Statutes, reads as follows:

"No female shall be employed in any factory, mine, mill, workshop, mechanical or mercantile establishment, hotel, restaurant, rooming house, theater, moving picture show, barber shop, beauty shop, road side drink and/or food vending establishment, telegraph, telephone or other office, express or transportation company, or any State institution, or any other establishment, institution or enterprise where females are employed, for more than nine (9) hours in any one calendar day, nor more than fifty-four (54) hours in any one calendar week." (Emphasis ours).

Section 5, Article 5172a, Vernon's Civil Statutes, entitled "Exceptions as to certain employments," reads in part as follows:

"The four (4) preceding Sections shall not apply to stenographers and pharmacists, nor to mercantile establishments, nor telephone and telegraph companies in rural districts, and in cities or towns or villages of less than three thousand

(3000) inhabitants as shown by the last preceding Federal Census, nor to . . ."

The language of Section 5, Article 5172a, clearly exempts stenographers and pharmacists from Section 1, Article 5172a, irrespective of the number of inhabitants in the particular rural district, city, town, or village where they work.

Section 1, Article 5172a, states specifically that females working in mercantile establishments and telephone and telegraph companies shall not be employed for more than nine hours in any one calendar day, nor more than fifty-four hours in any one calendar week.

A cardinal rule of construction requires that all the language and every part of a statute be given effect, if reasonably possible. A construction should not be adopted if it can be avoided, that will render any part of the act inoperative, nugatory or superfluous. 39 Tex.Jur. 208, Statutes, Section 112.

Another fundamental rule requires that a statute be construed as a whole and that all of its parts be harmonized, if possible, so as to give effect to the entire act. Each part of the statute is to be considered in connection with every other part and the entire enactment, in order to produce a harmonious whole. A provision will not be given a meaning out of harmony with other provisions and inconsistent with the purpose of the act, although it would be susceptible of such construction if standing alone. 39 Tex.Jur. 209, Statutes, Section 113.

Should Section 5, Article 5172a, be construed to exempt mercantile establishments and telephone and telegraph companies, regardless of their location, from the coverage of Section 1, Article 5172a, the effect would be to render the words "mercantile establishments" and "telegraph, telephone" superfluous or nugatory as used in Section 1, Article 5172a. This construction we cannot apply because to do so would make the two sections inconsistent.

You are accordingly advised that mercantile establishments and telephone and telegraph companies are exempted from Section 1, Article 5172a, in rural districts, cities or towns of less than three thousand inhabitants as shown by the last preceding Federal Census.

SUMMARY

Section 5, Article 5172a, exempts mercantile establishments and telephone and telegraph companies from coverage under Section 1, Article 5172a, only if the city, town or village in which they are located has less than three thousand inhabitants, or if located in rural districts.

Very truly yours,

WILL WILSON  
Attorney General of Texas

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By  
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MRT:pf:wb

APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL

BY: Geo. P. Blackburn